

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

ANTIOCH UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015020590

PARENT ON BEHALF OF STUDENT,

v.

ANTIOCH UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015030589

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING DATES

On June 9, 2015, the parties filed a joint request to continue dates in these matters. The hearing is scheduled to begin on June 16, 2015. Student alleges that her attorney, Nicole Hodge Amey is unavailable for hearing on June 16, 2015 because she will be in hearing in another matter. Antioch Unified School District alleges that several key witnesses will be unavailable for the hearing, beginning June 16, 2015 and that both attorneys who could represent it at hearing are unavailable for medical reasons and family leave in July 2015. The request to continue included sworn declarations from the witnesses and the attorneys. The parties request that the matters be set to begin on August 25, 2015.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) The Office of Administrative Hearings considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the

impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Partially Granted. All dates are vacated. Ms. Hodge Amey is not scheduled to be in hearing in the matter she claimed to be on June 16 and June 17, 2015. No good cause is found based upon her alleged unavailability. However, Antioch has shown good cause with both witness and attorney unavailability. However, given how long these matters have been pending, **no further continuances will be granted without a showing of substantial good cause.** This matter will be set as follows:

Prehearing Conference: August 17, 2015, at 1:00 p.m.

Due Process Hearing: August 25, 2015, at 9:30 a.m., August 26 and 27, 2015, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: June 10, 2015

/s/

MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings